

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

Michelle J. Bergschwenger,

Plaintiff,

v.

Case No. 11-11752

Michael J. Astrue, Commissioner of  
Social Security,

Honorable Sean F. Cox

Defendant.

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**OPINION**  
**GRANTING UNOPPOSED APPLICATION FOR ATTORNEYS' FEES**  
**PURSUANT TO THE EQUAL ACCESS TO JUSTICE ACT**

Plaintiff Michelle J. Bergschwenger ("Plaintiff"), acting through counsel, filed this action on April 21, 2011, seeking judicial review of the Commissioner's unfavorable decision disallowing benefits. Thereafter, the matter was referred to Magistrate Judge Michael Hluchaniuk.

On August 20, 2012, Magistrate Judge Hluchaniuk issued a Report and Recommendation ("R&R") (Docket Entry No. 22) wherein he recommended that the Court deny the Commissioner's Motion for Summary Judgment and grant the Plaintiff's Motion for Summary Judgment, that the findings of the Commissioner be reversed, and that benefits be awarded to Plaintiff. Neither party filed any objections to the August 20, 2012 R&R and this Court adopted it in an Order issued on September 12, 2012. (Docket Entry No. 23). A Judgment was issued that same date. (Docket Entry No. 24).

On December 11, 2012, Plaintiff filed an Application for Attorneys' Fees Pursuant to the Equal Access to Justice Act. (Docket Entry No. 26). Plaintiff seeks, as a prevailing party in this matter, an award of \$5,194.35 in attorneys' fees. Plaintiff's Application asserts that the Government's position in this matter was not substantially justified. In support of her Application, Plaintiff has submitted: 1) Consumer Price Index Data and Calculations; 2) Counsel's EAJA Timelog; 3) Affidavits of Plaintiff's Counsel; and 4) Compensation Survey Reports from 2010 and 2011 for Paralegal rates. Pursuant to *Astrue v. Ratliff*, \_\_\_ U.S. \_\_\_, 130 S.Ct. 2521 (2010), and a written assignment from Plaintiff, the Court is requested to order the award payable to Plaintiff but mailed to the office of her attorney.

On December 26, 2012, the Commissioner filed a response brief stating that, after reviewing Plaintiff's application and supporting materials, the Commissioner does not object to Plaintiff's request and that the amount of fees sought by Plaintiff is reasonable. (Docket Entry No. 28).

The Court finds that the issues have been adequately presented in the parties' briefs and that oral argument would not aid the decisional process. *See* Local Rule 7.1(f)(2), U.S. District Court, Eastern District of Michigan. The Court therefore orders that the Application will be decided upon the briefs. Having reviewed Plaintiff's Application and supporting materials, the Court shall GRANT Plaintiff's Application for Attorneys' Fees Pursuant to the Equal Access to

Justice Act. An appropriate order shall be issued forthwith.

S/Sean F. Cox

Sean F. Cox

United States District Judge

Dated: January 22, 2013

I hereby certify that a copy of the foregoing document was served upon counsel of record on January 22, 2013, by electronic and/or ordinary mail.

S/Jennifer McCoy

Case Manager